

# Exhibit 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

\* \* \* \* \*

IN RE: ABBOTT LABORATORIES, ET MDL 3026  
AL., PRETERM INFANT NUTRITION  
PRODUCTS LIABILITY LITIGATION Master Docket No.  
1:22-cv-00071

Hon. Rebecca P.  
Pallmeyer

This Document Relates to:

MAR v. ABBOTT LABORATORIES, N.D.  
Ill. Case No. 22-cv-00232

\* \* \* \* \*

Video deposition of ANTHONY MAR taken by the  
Defendant under the Federal Rules of Civil Procedure in  
the above-entitled action, pursuant to notice, before  
Elizabeth A. Hill, Registered Diplomate Reporter,  
Certified Realtime Reporter, at the Hampton Inn,  
5400 West Webster Road, Summersville, West Virginia,  
9:21 a.m. - 11:12 a.m., on the 23rd day of April, 2025.

Magna Legal Services  
866-624-6221  
www.MagnaLS.com

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<p>1 APPEARANCES</p> <p>2 APPEARING FOR THE PLAINTIFF:</p> <p>3 Jose M. Rojas, Esquire</p> <p>4 Jaclyn Paride, Esquire (via Zoom)</p> <p>5 LEVIN, ROJAS, CAMASSAR, &amp; RECK LLC</p> <p>6 391 Norwich-Westerly Road</p> <p>7 North Stonington, CT 06359</p> <p>8 rojas@ctlawyer.net</p> <p>9 Wendy R. Fleishman, Esquire (via Zoom)</p> <p>10 LIEFF CABRASER HEIMANN &amp; BERNSTEIN, LLP</p> <p>11 250 Hudson Street, 8th Floor</p> <p>12 New York, NY 10013</p> <p>13 (212) 355-9500</p> <p>14 wfleishman@lchb.com</p> <p>15 APPEARING FOR THE DEFENDANT:</p> <p>16 Maureen L. Rurka, Esquire</p> <p>17 Veronica Sotos, Esquire (via Zoom)</p> <p>18 WINSTON &amp; STRAWN LLP</p> <p>19 35 West Wacker Drive</p> <p>20 Chicago, IL 60601</p> <p>21 mrurka@winston.com</p> <p>22 vsotos@winston.com</p> <p>23 ALSO PRESENT:</p> <p>24 Chris Leigh, Videographer</p> <p>Raeghan O'Connor, Paralegal (via Zoom)</p> <p>Jazmin Taylor, Paralegal (via Zoom)</p> <p>LEVIN, ROJAS, CAMASSAR, &amp; RECK LLC</p>	<p>1 EXAMINATION INDEX</p> <p>2</p> <p>3 PAGE</p> <p>4 Anthony Mar</p> <p>5 BY MS. RURKA . . . . . 6</p> <p>6 BY MR. ROJAS . . . . . 88</p> <p>7 BY MS. RURKA . . . . . 91</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>1 EXHIBIT INDEX</p> <p>2</p> <p>3 NEW EXHIBITS PAGE</p> <p>4 Anthony Mar Exhibit</p> <p>5 1 Plaintiff Fact Sheet 86</p> <p>6 Plaintiff's Exhibit</p> <p>7 *1 Similac Special Care Premature 88</p> <p>8 formula bottle with "use by" date</p> <p>9 of 1 Dec 2024</p> <p>10 (retained by Plaintiff's counsel)</p> <p>11 PREVIOUSLY MARKED EXHIBITS</p> <p>12 Ericka Mar Exhibit</p> <p>13 27 Mountaineer Healthcare record 33</p> <p>14 28 State of West Virginia Mother's 26</p> <p>15 Worksheet for Child's Birth</p> <p>16 Certificate</p> <p>17 29 Summersville Regional Hospital 30</p> <p>18 Patient's Release from Responsibility</p> <p>19 for Refusal of Treatment</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Good morning. We are</p> <p>3 going on the record at 9:21 a.m. on April 23rd, 2025.</p> <p>4 This is Media Unit 1 of the</p> <p>5 video-recorded deposition of Anthony Mar, taken by</p> <p>6 counsel for Plaintiff (sic) in the matter of Mar versus</p> <p>7 Abbott Laboratories, filed in the U.S. District Court</p> <p>8 for the Northern District of Illinois, Eastern</p> <p>9 Division, Case No. 22-cv-00232.</p> <p>10 The location of the deposition is at the</p> <p>11 Hampton Inn located in Summersville, West Virginia.</p> <p>12 My name is Chris Leigh, representing</p> <p>13 Veritext, and I am the videographer. The court</p> <p>14 reporter is Elizabeth Hill from Magna.</p> <p>15 If there are any objections to</p> <p>16 proceeding, please state them at the time of your</p> <p>17 appearance. Counsel and all present, including</p> <p>18 remotely, will now state their appearances and</p> <p>19 affiliations for the record, beginning with the</p> <p>20 noticing attorney.</p> <p>21 MS. RURKA: Maureen Rurka from Winston &amp;</p> <p>22 Strawn on behalf of Abbott.</p> <p>23 MR. ROJAS: Good morning. Jose Rojas on</p> <p>24 behalf of the plaintiff, Ericka Mar.</p>

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1 MS. RURKA: Veronica Sotos from Winston &  
2 Strawn is also participating remotely.

3 THE VIDEOGRAPHER: Will the court  
4 reporter please swear in the witness.

5 ANTHONY MAR  
6 was called as a witness by the Defendant, pursuant to  
7 notice, and having been first duly sworn, testified as  
8 follows:

9 EXAMINATION

10 BY MS. RURKA:

11 Q. Good morning, Mr. Mar.

12 A. Good morning.

13 Q. Could you please state your full name for the  
14 record.

15 A. Anthony Lee Thomas Mar, II.

16 Q. And what is your date of birth?

17 A. February 22nd, 1995.

18 Q. You are the father of RaiLee Mar?

19 A. I am.

20 Q. And you understand that Ericka Mar is suing  
21 Abbott Laboratories on behalf of RaiLee?

22 A. I do.

23 Q. And you understand the claims in this case are  
24 related to necrotizing enterocolitis or NEC?

Page 7

1 A. I do.

2 Q. And that Ms. Mar is stating that Abbott's  
3 product caused RaiLee's NEC?

4 A. I do.

5 Q. Okay. Given the nature of the claims in this  
6 case, I understand this is going to be difficult. I  
7 might have to ask you some personal questions, so I  
8 apologize in advance for them, but I do have to get  
9 them out on the record. Okay? And I know this is a  
10 sensitive topic, so I apologize in advance for that as  
11 well.

12 If you need a break, just ask for one and we can  
13 take a break. My only request is that you answer the  
14 question before we take the break, if you can. Okay?

15 Do you understand?

16 A. I understand.

17 Q. Okay. I'll be asking you questions, and  
18 counsel might object to my questions. You still need  
19 to answer the questions as they are asked. His  
20 objections are just for the record, unless he instructs  
21 you for some reason not to answer. Okay?

22 A. Okay.

23 Q. And your answers should be verbal, not just  
24 gestures.

Page 8

1 A. All right.

2 Q. Just so the court reporter can take them down.  
3 Okay?

4 A. Okay.

5 Q. And then I will try not to interrupt your  
6 answer, if you could try not to interrupt my question,  
7 just to make sure that the court reporter has a chance  
8 to get everything down. Okay?

9 A. Okay.

10 Q. I will try to take breaks every hour. I don't  
11 know how long this is going to last. It probably won't  
12 last too long, but I'll try to take breaks every hour.  
13 If you need a break before then, just ask for one.  
14 Okay?

15 And do you understand you're under oath today --

16 A. I do.

17 Q. -- Mr. Mar? Okay.

18 And you understand that you're obligated to  
19 testify truthfully and to the best of your ability?

20 A. Yes.

21 Q. Is there anything that would prevent you from  
22 doing that today?

23 A. No.

24 Q. Do you still speak with Ms. Mar?

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1 A. I do.

2 Q. How often?

3 A. Very often. Every day.

4 Q. Every day. About this lawsuit?

5 A. No. Just in general about our other children  
6 and things going on with us and the kids and whatnot.

7 Q. How many children do you have with her?

8 A. Two.

9 Q. And what are their names?

10 A. Athena Mar and Reidon Mar.

11 Q. Athena and Reidon?

12 A. Yes.

13 Q. How old is Athena?

14 A. 13.

15 Q. And how old is Reidon?

16 A. 10.

17 Q. And in between Athena and Reidon, is it right  
18 that RaiLee was born --

19 A. Yes.

20 Q. -- in between them? Okay.

21 When did you become aware that Ms. Mar was filing  
22 a lawsuit on behalf of RaiLee?

23 A. I couldn't tell you for sure. I know it was  
24 sometime a few months ago, I believe.

Page 10

1 Q. Okay. And did she tell you why she decided to  
2 file the lawsuit?

3 A. Vaguely.

4 Q. What did she say?

5 A. She saw something online about how she could  
6 reach out to somebody, and then she reached out. And  
7 that's really all I had until I started talking to her  
8 more about it and I was told that I was going to be  
9 involved, and that's it.

10 Q. Who told you you were going to be involved?

11 A. Ericka said I might be involved as a witness,  
12 and then I was contacted through Attorney Rojas.

13 Q. Okay. So Ericka first told you that you might  
14 be a witness, and then Mr. Rojas --

15 A. Potentially, yes. She said I could  
16 potentially be a witness. She wasn't sure, at all,  
17 herself.

18 Q. Did she tell you anything about what you might  
19 be a witness about?

20 A. No.

21 Q. Did she ask you if you wanted to join the  
22 lawsuit as a plaintiff?

23 A. I don't believe she ever asked that directly.

24 Q. Did she -- did she personally ask you to

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1 for sure. I just know it was, again, a couple months  
2 ago, I'm sure, when we discussed everything initially.

3 Q. Okay. So when you discussed everything,  
4 meaning just the lawsuit generally?

5 A. Yeah. When she had told me about her  
6 deposition and her being involved and that it was  
7 moving forward. That's when she had decided to discuss  
8 things with me.

9 Q. Do you plan to testify at trial in this case?

10 A. At this point, I'm unsure because I know I  
11 would have to travel for it, and with my work schedule,  
12 it's complicated, and if I take one day off, I have to  
13 take an entire week off. So I have to get in line with  
14 them before I can make a decision for sure.

15 Q. And what do you plan to testify about if  
16 you're called at trial?

17 MR. ROJAS: Objection. Vague.

18 A. Just whatever I'm supposed to testify for  
19 regarding RaiLee. That's what this is about.

20 Q. Did Mr. -- Mr. Rojas, did he talk to you  
21 about -- this is a yes-or-no question. Did he talk to  
22 you about whether and what you might testify to at  
23 trial?

24 A. No.

Page 11

1 testify in this case?

2 A. No.

3 Q. Did she promise you anything in exchange for  
4 testifying in this case?

5 A. No.

6 Q. Were you ever told that you would get -- could  
7 get damages for testifying in this case?

8 A. No.

9 Q. Did you talk to Ms. Mar about the deposition  
10 today?

11 A. I told her I was having a deposition, yes.

12 Q. Okay. Did she say anything in response?

13 A. No. Just "Good luck."

14 Q. And did you review her deposition transcript  
15 before today?

16 A. No.

17 Q. Did you know she was deposed?

18 A. Yes.

19 Q. Did you know at the time she was being deposed  
20 that she was deposed?

21 A. No.

22 Q. How long ago did she tell you that you might  
23 be testifying as a witness in this case?

24 A. I couldn't place a time. I couldn't tell you

Page 13

1 Q. Is he acting as your attorney today?

2 A. No, I don't believe so.

3 Q. What did he tell you when you spoke with him?

4 A. To be open and honest and just tell the truth  
5 and then asked me if there were any closer hotels than  
6 where he was staying. That was it.

7 Q. Okay. Did you do anything to prepare for the  
8 deposition today?

9 A. No.

10 Q. You didn't meet with Mr. Rojas to talk about  
11 the deposition or what might be asked?

12 A. No.

13 Q. Is that fair? Okay.

14 Did you talk to anyone other than Mr. Rojas and  
15 Ms. Mar about the deposition today?

16 A. No. My mother, actually.

17 Q. Okay.

18 A. Because she's getting deposed today as well, I  
19 guess.

20 Q. And what did you -- that's Rebecca Lambert; is  
21 that right?

22 A. Yeah.

23 Q. And what did you and Ms. Lambert talk about?

24 A. I just asked her what time hers was and if it

Page 14

1 was on the same day, because I was going to be her  
2 transportation, if need be, but she got her own thing  
3 worked out.

4 Q. Did you review any documents to prepare for  
5 today's deposition?

6 A. No.

7 Q. Okay. So, Mr. Mar, what is your current  
8 address?

9 A. 700 Kanawha Street in Gassaway, West Virginia.

10 Q. In -- I'm sorry?

11 A. Gassaway, West Virginia.

12 Q. Okay. And how long have you lived there?

13 A. Just a couple months.

14 Q. Did you -- where did you live at the time  
15 RaiLee was born?

16 A. In Flatwoods. Sutton, West Virginia.  
17 54 Ashley Place I believe is the address.

18 Q. Okay. And at the time, you were married to  
19 Ms. Mar --

20 A. Yes.

21 Q. -- Ms. Ericka Mar?

22 When I say "Ms. Mar," I'll be referring to Ericka  
23 Mar. Is that okay?

24 A. That's fine.

Page 16

1 A. Fast Fuel through Canton Meadows,  
2 Incorporated.

3 Q. And what is your position there?

4 A. I'm a laborer.

5 Q. How long have you been there?

6 A. Five, six months now.

7 Q. And before that, where were you employed?

8 A. Osmose Utilities.

9 Q. I'm sorry?

10 A. Osmose Utilities.

11 Q. Okay. And what was your position there?

12 A. I was a ground line inspector for power poles.

13 Q. And how long were you employed there?

14 A. A little over a year.

15 Q. Have you ever worked in a hospital?

16 A. No.

17 Q. Do you currently have any other sources of  
18 income other than your current job?

19 A. No.

20 Q. Do you have any criminal history?

21 A. I do.

22 Q. What is your criminal history?

23 A. I have -- I believe it's possession. I  
24 believe before that I have a few other misdemeanors. I

Page 15

1 Q. Does anyone else currently live with you at  
2 your current address?

3 A. Yeah. I live with my girlfriend right now.

4 Q. So, Mr. Mar, did you graduate high school?

5 A. I have my GED.

6 Q. Your GED. And when did you get that?

7 A. 2012.

8 Q. I'm sorry?

9 A. 2012.

10 Q. Did you go to college at all?

11 A. No.

12 Q. Did you do trade school?

13 A. No.

14 Q. Did you have any education beyond high school?

15 A. No.

16 Q. And it's correct that you don't have any  
17 medical training; right?

18 A. Right.

19 Q. So you have no training in infant nutrition.  
20 Is that fair?

21 A. That's fair.

22 Q. Are you currently employed, Mr. Mar?

23 A. Yes.

24 Q. And where are you employed?

Page 17

1 couldn't tell you exactly what the charges are for,  
2 except that I know that I have a felony for possession,  
3 and then I also have the misdemeanors, and that's it.

4 MR. ROJAS: And if I may, I just want to  
5 state an objection to any questions regarding criminal  
6 history. Move to strike the previous question and  
7 answer to the extent they're not felonies.

8 BY MS. RURKA:

9 Q. So on the possession charge, what was it  
10 possession of?

11 A. A controlled substance.

12 Q. Okay. What was the substance?

13 A. Methamphetamine.

14 MR. ROJAS: Objection.

15 Do you mind if I just keep a standing  
16 objection to this so I don't have to keep interrupting  
17 you?

18 MS. RURKA: To this line, yeah, that's  
19 fine.

20 MR. ROJAS: Okay.

21 BY MS. RURKA:

22 Q. Okay. So have you ever been deposed before,  
23 Mr. Mar?

24 A. No.

Page 18

1 Q. Have you ever been a party to a lawsuit  
2 before?

3 A. No.

4 Q. And have you ever testified at trial before?

5 A. No.

6 Q. Have you participated in any court proceedings  
7 other than this lawsuit?

8 A. Yes.

9 Q. And would that be in relation to the felony  
10 and misdemeanors charges?

11 A. Yes.

12 Q. Anything else?

13 A. No.

14 Q. Do you have any current health conditions?

15 A. No.

16 Q. And do you have any prior health conditions?

17 A. No.

18 Q. Does anyone in your family have a genetic  
19 condition or disorder --

20 MR. ROJAS: Objection.

21 Q. -- to your knowledge?

22 A. No.

23 Q. Do you?

24 A. To my knowledge, no.

Page 20

1 A. And this was after the fact, and she went to  
2 the NICU for that. She was fine, and they let her go  
3 home, and she was cleared for everything there.

4 Q. Okay. How long was she in the NICU?

5 A. I think a month, if that. She was the biggest  
6 baby there.

7 Q. I had one of those too.

8 Did Ms. Mar breastfeed Athena, to your knowledge?

9 A. She --

10 MR. ROJAS: Objection.

11 A. -- breastfed and pumped as much as she could,  
12 yes.

13 Q. Okay. Do you think she tried as hard as she  
14 could to provide breast milk for Athena?

15 A. I do.

16 MR. ROJAS: Objection.

17 Q. Okay. And she ended up stopping breastfeeding  
18 Athena; is that right?

19 MR. ROJAS: Objection.

20 A. Yes.

21 Q. And why is that?

22 MR. ROJAS: Objection.

23 A. Because she wouldn't take to the nipple.

24 Q. Did she eventually transition Athena to

Page 19

1 Q. To your knowledge, has anyone in your family  
2 been tested for a genetic condition or disorder?

3 MR. ROJAS: Objection.

4 A. To my knowledge, no.

5 Q. Okay. So we had mentioned -- we had talked  
6 about your other children with Ms. Mar. Do you have  
7 any children other than those two?

8 A. No.

9 Q. Okay. So let's talk about your first child,  
10 Athena. She was born in January 2012; is that right?

11 A. She was.

12 Q. And did she have any complications during  
13 birth?

14 A. During birth?

15 MR. ROJAS: Objection.

16 Q. Yes.

17 A. She had -- yes.

18 Q. What were those complications?

19 MR. ROJAS: Objection.

20 A. I think it was after birth, more or less,  
21 because she had seizures, and they gave her  
22 phenobarbital, and she was cleared with all that when  
23 she saw a neurologist in New Orleans.

24 Q. Okay. So she was --

Page 21

1 formula?

2 MR. ROJAS: Objection.

3 A. Eventually.

4 Q. Do you know why she wanted to -- did she ever  
5 tell you why she wanted to breastfeed Athena?

6 MR. ROJAS: Objection.

7 A. Because it's the most natural and healthy way  
8 to do it.

9 Q. Did you have discussions with her regularly  
10 about that --

11 MR. ROJAS: Objection.

12 Q. -- about breastfeeding?

13 A. Yes.

14 Q. And was it your opinion that that was the most  
15 natural --

16 A. Yes.

17 Q. -- and healthy way --

18 A. It was.

19 Q. Okay. So let's talk about Reidon.

20 A. It's "Reidon."

21 Q. Reidon. Sorry. I apologize for that.  
22 Reidon was born in February of 2015; is that  
23 right?

24 A. He was.



Page 22

1 Q. Okay.

2 MR. ROJAS: Can I have a standing  
3 objection to any -- I can object individually, or I can  
4 have a standing objection to any questions about  
5 Reidon's medical care as well. What would you prefer?

6 MS. RURKA: I guess I'm curious. What is  
7 your objection to --

8 MR. ROJAS: Relevance.

9 MS. RURKA: Relevance, okay. So, yeah,  
10 you can have a standing objection to relevance. If you  
11 have a -- if you have an objection to the form of my  
12 question, I would ask that you make it at the time I  
13 ask --

14 MR. ROJAS: Fair enough.

15 MS. RURKA: -- the question. Thank you.  
16 BY MS. RURKA:

17 Q. So did -- was Reidon's birth -- were there any  
18 complications during Reidon's birth?

19 A. During his birth, no.

20 Q. Okay. How about after his birth?

21 A. Yes.

22 Q. And what were those?

23 A. His lungs were underdeveloped. They gave him  
24 a steroid for it, and he was fine.

Page 24

1 A. Because she pumped until she couldn't pump any  
2 more.

3 Q. She wasn't producing enough milk?

4 A. Exactly.

5 Q. Do you understand that Reidon developed NEC  
6 while he was in the NICU?

7 MR. ROJAS: Objection. Misstates the  
8 record.

9 A. He did not.

10 MR. ROJAS: That was inappropriate,  
11 Counsel.

12 MS. RURKA: Why was that inappropriate?

13 MR. ROJAS: Because it's been clearly  
14 established in the record that Reidon did not have NEC,  
15 and to attempt to mislead the witness like that is a  
16 little disturbing.

17 BY MS. RURKA:

18 Q. There is -- just so you know, there's going to  
19 be some back and forth with us. There's not anything  
20 inappropriate with me asking you questions about that,  
21 but --

22 When did you first learn that Ms. Mar was pregnant  
23 with RaiLee?

24 A. As soon as she found out.

Page 23

1 Q. He was born prematurely; is that right?

2 A. Yes.

3 Q. Okay. And how long -- did he spend time in  
4 the NICU?

5 A. Yeah, a little bit.

6 Q. How long? Do you recall?

7 A. Probably about a month, I would just say, you  
8 know.

9 Q. How is he doing now?

10 A. Perfectly fine.

11 Q. Did Ms. Mar breastfeed Reidon, to your  
12 knowledge?

13 A. She tried.

14 MR. ROJAS: Objection.

15 Q. Okay. Do you think she tried as hard as she  
16 could to --

17 A. I do.

18 Q. And why did she -- she didn't -- she stopped;  
19 is that right?

20 A. She had to. She pumped, though, as much as  
21 she could, and then -- again, same thing with Athena --  
22 we eventually switched to a formula.

23 Q. And why did you switch to the formula?

24 MR. ROJAS: Objection.

Page 25

1 Q. Does July 20 -- July 2013 sound about right?

2 A. Around about, yeah, because I know that just  
3 like with Athena, she found out, and I took her to the  
4 store, and we bought umpteen million pregnancy tests to  
5 confirm it, and then we went to the doctor the next  
6 day. So, yes.

7 Q. Okay. Do you know how far along she was  
8 when --

9 A. I do not.

10 Q. Do you recall her original due date?

11 A. I do not.

12 Q. Did you attend any of the prenatal or OB-GYN  
13 appointments with Ms. Mar?

14 A. The ones that I wasn't working, yes.

15 Q. Okay. And how many of those do you recall  
16 attending?

17 A. More than half.

18 Q. Numberwise, do you know?

19 A. I have no idea. I couldn't give you a number.

20 Q. Do you know whether she attended all of her  
21 prenatal appointments?

22 A. She did.

23 Q. And do you know whether she missed any of  
24 them?



Page 26

1 A. Not to my knowledge.

2 Q. Okay. I'm going to show you -- just one  
3 second. I apologize. One second.

4 I'm going to show you what we marked as Exhibit 28  
5 to Ms. Mar's deposition on August 15th, 2023, if you  
6 want to go ahead and take a look at that.

7 (Ericka Mar Exhibit No. 28, previously  
8 marked.)

9 MR. ROJAS: Thank you, Counsel.

10 BY MS. RURKA:

11 Q. And what you're looking at is the State of  
12 West Virginia Worksheet for Child's Birth Certificate,  
13 and this is for RaiLee, okay, just to orient you on  
14 what this document is.

15 Have you seen this before?

16 A. I'm sure I have.

17 Q. Do you think you might have helped Ms. Mar  
18 fill this out?

19 A. I couldn't tell you for sure.

20 Q. Okay. And you understand that Ms. Mar is the  
21 one who filled this out for RaiLee?

22 A. Correct.

23 MR. ROJAS: Objection.

24 Q. Okay. Would you go to page 4 of the document?

Page 28

1 she smoked during pregnancy?

2 A. We haven't. It's never been a topic of  
3 discussion.

4 Q. Okay. What is your recollection as to how  
5 much she smoked?

6 A. She never smoked more than one whole pack of  
7 cigarettes a day, ever, in the time that I have known  
8 her, and that was -- we shared everything. So when we  
9 were smoking cigarettes -- because I am a smoker as  
10 well -- we shared our cigarettes every time we were  
11 together.

12 Q. So she never smoked three packs a day?

13 A. She may have misunderstood this document.

14 Q. Okay. Why do you think she misunderstood this  
15 document?

16 A. Because she was trying to probably get out of  
17 the hospital to see her baby. You said this is to file  
18 for a birth certificate, right?

19 Q. Right.

20 A. So I'm assuming she had to fill this out  
21 before getting the birth certificate, which means right  
22 after RaiLee's birth. She was probably -- these  
23 numbers don't match. They're not true. She's never  
24 smoked that many cigarettes.

Page 27

1 And under Question 14, "How many cigarettes or  
2 packs of cigarettes did you smoke on average" -- "on an  
3 average day during each of the following time periods?"

4 And there are some answers there that Ms. Mar  
5 filled out.

6 Do you see those?

7 A. I see those.

8 Q. And so three months before pregnancy, she says  
9 three packs per day.

10 For the first three months of pregnancy, she says  
11 two to four packs per day.

12 And then the second three months of pregnancy, she  
13 says one-half to one pack per day.

14 Is that consistent with your recollection as to  
15 how much she smoked?

16 A. It is not.

17 Q. Okay. So she didn't -- she was not accurate  
18 here in reflecting what she smoked at the time?

19 MR. ROJAS: Objection.

20 A. As far as her reflection goes, no.

21 Q. Okay. And did you discuss this topic with  
22 Ericka Mar before today's deposition?

23 A. I did not.

24 Q. Did you discuss at any point in time how much

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1 Q. Okay. Did she smoke a half pack to one pack a  
2 day?

3 A. She has before, yes. Yeah. That's accurate.

4 Q. Okay. So for the second three months of  
5 pregnancy, is it accurate that she smoked a half pack  
6 to one pack a day?

7 A. No. See, that's what I'm saying, that she  
8 must have misunderstood the document, because the  
9 second trimester -- right, that's what you refer to  
10 them as is trimesters -- by then, she was down to maybe  
11 a couple cigarettes a day that she shared with me.

12 Q. And she signed this on January, it looks like,  
13 12th, 2014?

14 A. Where is -- yeah, I --

15 MR. ROJAS: Objection. Counsel, are you  
16 reading on page 8?

17 MS. RURKA: Yes. Is that January 2nd or  
18 12th?

19 MR. ROJAS: I mean, only Ericka would  
20 know.

21 BY MS. RURKA:

22 Q. January 2nd, 2014?

23 A. It looks like the 2nd to me.

24 Q. Okay. This was -- you're testifying that she

1 was trying to get out of what hospital at this point?

2 MR. ROJAS: Objection.

3 A. Yeah, this is January 2nd, because the date  
4 above there is clearly a 2.

5 Q. And what hospital was she trying to get out of  
6 at this point?

7 A. Summersville.

8 Q. Summersville. To go see RaiLee, who had been  
9 transferred? Is that what you're saying?

10 A. RaiLee was transferred.

11 Q. Okay. I'm going to show you what we marked as  
12 Exhibit 29 in Ericka Mar's August 15, 2023, deposition.

13 (Ericka Mar Exhibit No. 29, previously  
14 marked.)

15 MR. ROJAS: May I inquire, Counsel, has  
16 this been marked for today's deposition separately?

17 MS. RURKA: No.

18 MR. ROJAS: You're just keeping that --

19 MS. RURKA: I'm just keeping that marked  
20 because they have already been marked.

21 MR. ROJAS: Sure.

22 BY MS. RURKA:

23 Q. So I'll show you this one. And, Mr. Mar, this  
24 is the Patient's Release from Responsibility for

1 Refusal of Treatment.

2 Do you see that?

3 A. I see it.

4 Q. And this is from January 1st, 2014. Do you  
5 see that?

6 MR. ROJAS: Objection.

7 A. I see that.

8 Q. And this is Ericka Mar who signed this Release  
9 from Responsibility for Refusal of Treatment. Do you  
10 see that?

11 MR. ROJAS: Objection.

12 A. I do.

13 Q. Okay. And if you look at the "Procedures  
14 Refused" line, it says, "Wearing SCDs, wearing  
15 abdominal binder, wearing nicotine patch, and not  
16 smoking."

17 Do you see that?

18 A. I see that.

19 MR. ROJAS: Objection.

20 Q. And that means she refused to wear the  
21 nicotine patch and refused to not smoke?

22 MR. ROJAS: Objection.

23 Q. Do you understand that?

24 A. I understand that.

1 Q. Okay. And then her -- the reason for her  
2 refusal was listed as: "I want to be comfortable while  
3 I heal. I am going to smoke regardless."

4 Do you see that?

5 MR. ROJAS: Objection.

6 A. I see that.

7 Q. Okay. So you understand that Ms. Mar wanted  
8 to smoke after she had RaiLee --

9 MR. ROJAS: Objection.

10 Q. -- and refused to use a nicotine patch; right?

11 A. I understand that.

12 Q. Okay. And did you know about that at the  
13 time?

14 MR. ROJAS: Objection.

15 A. I know about this, yes.

16 Q. Okay. And you still say she wasn't smoking  
17 more than two cigarettes a day in her second trimester?

18 A. She wasn't smoking three packs of cigarettes.  
19 She wasn't smoking two packs of cigarettes. She wasn't  
20 smoking one pack of cigarettes. She was smoking a  
21 hand -- no more than five cigarettes, and they were  
22 shared with me.

23 Q. Let's go to --

24 A. Just let me state that our children's health

1 is very serious to us. It always has been, especially  
2 with Athena and having her run-in with the NICU. After  
3 that, everything we did was to prevent anything bad  
4 from happening to our children.

5 Q. Okay. I'm going to show you what we have  
6 marked as Exhibit 27 of Ericka Mar's deposition from  
7 August 15, 2023. There you go.

8 (Ericka Mar Exhibit No. 27, previously  
9 marked.)

10 BY MS. RURKA:

11 Q. And this is dated August 8th, 2013. Okay? Do  
12 you see that at the top?

13 A. Okay.

14 Q. And this is a -- this was right after -- it  
15 was about a month after she learned that she was  
16 pregnant. Does that sound right?

17 A. Okay.

18 Q. Does that sound --

19 A. Yes.

20 Q. -- right to you? Okay.

21 And this is a doctor's visit. Do you see that?

22 A. I see that.

23 Q. What is Mountaineer Healthcare?

24 A. It's a healthcare place in Weston. It's a

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1 doctor's office.

2 Q. Is that where she --

3 A. I believe Dr. Farry was her name. I'm not  
4 sure.

5 Q. And is that your recollection as to where --

6 A. Yes.

7 Q. -- Ms. Mar -- let me just finish the question.  
8 I'm sorry. I just need to finish the question before  
9 you answer.

10 Is that your recollection as to where Ms. Mar went  
11 for some of her prenatal appointments?

12 A. Yes.

13 Q. Okay. And if you look down under "Medical  
14 History," toward the bottom half of the thing, it's --  
15 under "Tobacco," do you see that on the left-hand side  
16 towards the bottom of this box?

17 A. Uh-huh.

18 Q. It says, "Yes. Smokes one to one and a half  
19 packs per day."

20 Do you see that?

21 MR. ROJAS: Objection.

22 A. I see that.

23 Q. Is that not accurate?

24 A. It's accurate if you combine us smoking them

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1 A. I would say that that's inaccurate.

2 Q. Then it says, "Illicit/recreational drugs:  
3 Yes, THC and party."

4 MR. ROJAS: Objection.

5 Q. Do you see that?

6 A. I see that.

7 Q. Do you think that's inaccurate?

8 MR. ROJAS: Objection.

9 A. I think that's inaccurate, but I also don't  
10 understand it.

11 Q. Okay. Why don't you understand it?

12 A. "THC and party" --

13 MR. ROJAS: Objection.

14 A. -- doesn't make sense.

15 Q. If you look at the last -- page 18 of 28.  
16 It's the last page of this document. It's like if you  
17 flip -- I think you can just flip the whole thing over.  
18 Oh, yeah. There you go. You're not on double-sided.

19 Under "Chemistry," do you see that?

20 A. I do.

21 MR. ROJAS: Objection.

22 Q. Do you see "THC" down there at the bottom?

23 MR. ROJAS: Objection.

24 A. I see that.

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1 together, yes.

2 Q. Okay. And then under "Alcohol," she says,  
3 "Yes. At party in July."

4 Do you see that?

5 A. I see that.

6 Q. And then "Illicit/recreational drugs: "Yes,  
7 THC and party."

8 Do you see that?

9 MR. ROJAS: Objection.

10 Q. Okay. So --

11 THE COURT REPORTER: I didn't hear an  
12 answer. Was there an answer?

13 BY MS. RURKA:

14 Q. I'm sorry. Do you see that?

15 A. Yes.

16 Q. Okay. So at -- she was at a party in July and  
17 consumed some alcohol. Is that correct?

18 MR. ROJAS: Objection. You're asking him  
19 if he knows that to be true or whether the document  
20 says it?

21 BY MS. RURKA:

22 Q. Do you know that to be true?

23 A. I don't know that to be true for sure.

24 Q. Do you think that's inaccurate?

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1 Q. And it says "positive." Do you see that?

2 MR. ROJAS: Objection.

3 A. I see that.

4 Q. To your knowledge, did Ms. Mar use marijuana?

5 MR. ROJAS: Objection.

6 A. Yes.

7 Q. How often did she use marijuana?

8 MR. ROJAS: Objection.

9 A. I couldn't tell you. Recreationally. Every  
10 so often. There is no time stamp I can put on that for  
11 you.

12 Q. Did she --

13 A. It certainly wasn't a daily thing.

14 Q. Do you recall her using it in this 2013,  
15 mid --

16 A. I do not.

17 MR. ROJAS: Objection.

18 Q. Sorry. Let me just finish the question before  
19 you answer. I'm sorry. I know this is a difficult  
20 circumstance.

21 Do you recall her using it in this time frame in  
22 mid-2013?

23 MR. ROJAS: Objection.

24 A. I do not.

1 Q. Did you -- you said you smoked as well while  
2 she was pregnant. Is that fair?

3 MR. ROJAS: Objection.

4 A. Yes.

5 Q. Did you smoke inside the house?

6 MR. ROJAS: Objection. What -- can you  
7 articulate some probative value to this question?

8 MS. RURKA: I don't need to articulate a  
9 probative value. This is a deposition.

10 MR. ROJAS: You need -- your --

11 MS. RURKA: Counsel, this is a  
12 deposition.

13 MR. ROJAS: No. Your questions have to  
14 be reasonably calculated to lead to the discovery of  
15 admissible evidence.

16 MS. RURKA: Yes.

17 MR. ROJAS: And they cannot be designed  
18 to just harass a witness.

19 MS. RURKA: It's not designed to harass  
20 the witness.

21 MR. ROJAS: So when I ask you for -- the  
22 rules allow me to ask you for a statement of  
23 articulation of relevance, of what your relevance is  
24 here.

1 A. Uh-huh.

2 MR. ROJAS: Objection.

3 Q. And can you just tell me a little bit about  
4 what you remember about that day, about that  
5 experience?

6 A. A bang on the wall. I was asleep. I woke up.  
7 She's screaming in the bathroom. I called 911. 911  
8 came and got her, took her to the hospital, and  
9 everything happened from there. My baby was born  
10 and --

11 Q. What generally happened when you arrived at  
12 the hospital? Do you recall?

13 A. They had her on the gurney. They took her  
14 back and did their thing. Like, I wasn't present for  
15 most of that. It was an emergency.

16 Q. You understand that she had a C-section that  
17 day?

18 A. I do, yes.

19 Q. Did you discuss anything with the doctors  
20 before her C-section?

21 A. They were just telling me that she was having  
22 a C-section and that -- they told me that it was an  
23 emergency and it needed to happen.

24 Q. Did they say anything about the health of

1 MS. RURKA: Relevance is not a basis for  
2 objection in a deposition.

3 MR. ROJAS: You're asking a witness  
4 that's not a party to this case whether he's had  
5 marijuana?

6 MS. RURKA: No, I did not ask him that.

7 MR. ROJAS: Okay. Objection.

8 BY MS. RURKA:

9 Q. I'm talking about cigarettes, sir. Did you  
10 smoke inside the house while she was pregnant?

11 A. No.

12 MR. ROJAS: Objection.

13 Q. Did you smoke marijuana in the house during  
14 Ms. Mar's pregnancy?

15 MR. ROJAS: Objection.

16 A. No.

17 Q. Were you -- did you know the circumstances  
18 around how Ms. Mar was first admitted to the hospital  
19 in January of 2014 for RaiLee's birth? Were you  
20 present for those?

21 A. I was sleeping, and she woke me up because she  
22 started bleeding in the bathroom.

23 Q. Okay. You understand her placenta ruptured at  
24 home; is that right?

1 Ms. Mar or the infant to you?

2 A. Should it come down to it -- and I have been  
3 asked -- I was asked this for Athena and Reidon both.  
4 Should it come down to it and we had no choice, they  
5 apologized in advance for everything, because it was  
6 serious. There was a lot of blood because her placenta  
7 ruptured, and they wanted me to be prepared, just to  
8 have a state of mental preparedness in case. That's  
9 what I recollect.

10 Q. Okay. In case -- I'm sorry. Can you just  
11 flesh out what you mean?

12 A. Death. In case of death.

13 Q. Which person to save? Is that what you're  
14 saying?

15 A. Basically.

16 Q. Okay.

17 A. There is no way to answer that.

18 Q. I understand. I understand the sensitivity of  
19 that question.

20 Did Ms. Mar weigh in on that topic when it came to  
21 RaiLee?

22 A. Yes.

23 Q. What did she say?

24 A. Don't choose her, ever. Kids always come

1 first.  
 2 Q. Don't choose Ericka, choose the infant?  
 3 A. RaiLee. The children always come first. Yes.  
 4 Q. She was at -- did that feel like a life -- I'm  
 5 sorry. Let me just start over.  
 6 When you were there at the hospital with her and  
 7 she was going to be given a C-section, did that feel  
 8 like a life-or-death situation to you?  
 9 A. A C-section didn't. Just hearing that doesn't  
 10 sound like a life-threatening situation. I'm used to  
 11 that terminology. But everything that was happening  
 12 felt terrible.  
 13 Q. Okay. Because it was an emergency?  
 14 A. Yes.  
 15 Q. And she was at -- RaiLee was at 28 weeks at  
 16 that time; is that right?  
 17 A. Yes.  
 18 Q. Did you have any understanding at the time of  
 19 the risks or challenges of a preterm birth?  
 20 A. Yes.  
 21 Q. What was your understanding?  
 22 A. Just how challenging it could be, because even  
 23 though Athena wasn't premature, she was still in the  
 24 NICU, and they educated us in the NICU on premature

1 wrong -- right word. I don't know. Quickly. Not  
 2 long, you know, because she was -- they took her.  
 3 Q. Do you know why she took her?  
 4 A. Just the prematurity. She needed to go to a  
 5 NICU. She was very tiny. They didn't have a NICU in  
 6 Summersville.  
 7 Q. Okay. So did someone tell you that, or is  
 8 that something you knew already?  
 9 A. It's just something that I was told. We  
 10 followed them and got there.  
 11 Q. So she was transferred, and is it correct that  
 12 Ms. Mar was still in -- at Summersville because she had  
 13 just had a C-section?  
 14 A. Yes.  
 15 Q. Okay. Did you stay with her, or did you go to  
 16 CAMC?  
 17 A. I stayed with her.  
 18 Q. And she eventually left Summersville; is that  
 19 right?  
 20 A. Yeah.  
 21 Q. Do you know how long that took for her to  
 22 leave?  
 23 A. I believe it was less than 24 hours.  
 24 Q. And she -- is it correct that she left against

1 births because they had to. It was part of the release  
 2 process.  
 3 Q. What do you remember about what they educated  
 4 you about preterm births in the NICU?  
 5 A. CPR, infant CPR, feedings, watching them, how  
 6 they slept, swaddling, doing things properly that way.  
 7 Just in-home care things.  
 8 Q. What do you remember about the feedings?  
 9 A. I don't. I couldn't tell you exactly what I  
 10 remember.  
 11 Q. Do you remember any discussions about what the  
 12 child should be fed?  
 13 A. No, because it was always in our mind that it  
 14 was mother milk and pump if you can. And then Athena's  
 15 formula worked for her, and that's what we would have  
 16 switched to, you know.  
 17 Q. Were you able to see RaiLee when she was  
 18 delivered?  
 19 A. When she was delivered?  
 20 Q. Yes.  
 21 A. After the fact, yes.  
 22 Q. Did you see her before she was transferred to  
 23 CAMC?  
 24 A. Very, very, very shortly, I guess is the

1 the doctor's orders?  
 2 A. Yes.  
 3 Q. Okay. Because she wanted to see RaiLee. Is  
 4 that fair?  
 5 A. Yes.  
 6 Q. And same with you? You wanted to see RaiLee?  
 7 A. Yes.  
 8 Q. Did you take her right there, then, to see  
 9 Railee --  
 10 A. Yes.  
 11 Q. -- at CAMC?  
 12 A. Sorry.  
 13 Q. That's okay.  
 14 A. Yes.  
 15 Q. This is a very unnatural exercise, so I  
 16 understand. I understand it's difficult to wait, but  
 17 if you could just wait until I finish the questions,  
 18 that would be very helpful to the court reporter.  
 19 Where did you stay when you first went to  
 20 Charleston to CAMC?  
 21 A. Initially, I believe it was the Ronald  
 22 McDonald House, and then -- yeah, the Ronald McDonald  
 23 House. And I was back and forth between there, the  
 24 hospital, and work.



1 Q. Okay. So I wanted to ask you about that.  
 2 Did -- is it correct that Ms. Mar stayed at the Ronald  
 3 McDonald House during the time that RaiLee was in the  
 4 NICU mostly?  
 5 A. Yes.  
 6 Q. And you did not stay there. You went back and  
 7 forth. Is that fair?  
 8 A. Correct.  
 9 Q. Did you stay there occasionally when you  
 10 could, or did --  
 11 A. I stayed there most of the week, yes.  
 12 Q. Okay. So you would stay there for part of the  
 13 week and then go home to work?  
 14 A. Yes.  
 15 Q. And that's --  
 16 A. But I would come back.  
 17 Q. That was in Summersville; is that right?  
 18 A. My work?  
 19 Q. Yes.  
 20 A. No. My work was in Braxton County.  
 21 Q. So it was --  
 22 A. Back home.  
 23 Q. It was a ways a way?  
 24 A. Yeah. It was, from Charleston, about an hour

1 or --  
 2 A. Yeah. Next to her box, like her bili box.  
 3 That was what they called it, I think.  
 4 Q. And did you have like a daily visit with her,  
 5 or did you --  
 6 A. Yeah. We could see her every day at least  
 7 once between rounds.  
 8 Q. Was there a time when you were not allowed in  
 9 the room with her?  
 10 A. Whenever they were doing rounds with the  
 11 doctor. So the doctor would go around and check all  
 12 the babies, doing his thing. All the doctors would.  
 13 So there was no interruption and parents being in the  
 14 way and all this stuff, they needed the room.  
 15 Q. And how long would those rounds last?  
 16 A. An hour, two hours, maybe.  
 17 Q. And other than that, were you then there with  
 18 RaiLee when you were able to be?  
 19 A. Yes.  
 20 Q. In Charleston?  
 21 A. Yes.  
 22 Q. And was Ms. Mar there every day with RaiLee?  
 23 Is that fair?  
 24 A. Yes.

1 and a half.  
 2 Q. Did anyone else make the trip to CAMC to see  
 3 RaiLee?  
 4 A. Yes.  
 5 Q. Who?  
 6 A. My mother, my grandmother, and my stepfather.  
 7 Q. Aside from those three, anyone else?  
 8 A. Not to my knowledge. My father and my  
 9 stepmother, yes.  
 10 Q. And did you speak with them about RaiLee and  
 11 her condition?  
 12 A. Yes.  
 13 Q. And do you generally recall what you would  
 14 talk about with them?  
 15 A. No. It was mostly crying.  
 16 Q. When did you first get to see RaiLee in the  
 17 NICU? Do you recall?  
 18 A. A couple days after they admitted her, or even  
 19 the day of.  
 20 Q. And did you visit regularly with her? Would  
 21 you -- yes?  
 22 A. Yeah. We washed in to see her regularly  
 23 before everything happened, yes.  
 24 Q. Would you be able to sit with her for a while

1 Q. To your knowledge?  
 2 A. Except for one day whenever I took her home to  
 3 shower, but I took her back that same day.  
 4 Q. And your mother and your stepfather, they  
 5 visited RaiLee in the NICU; is that right?  
 6 A. Yes.  
 7 Q. And how often were they there?  
 8 A. Once or twice, I believe.  
 9 Q. Once or twice total?  
 10 A. I believe, maybe, yes.  
 11 Q. I'm just trying to get a sense. Do you recall  
 12 generally around when that was?  
 13 A. It was more or less parents-focused and not  
 14 everybody else needing to put their hands on children  
 15 in the NICU who are in that condition prematurely.  
 16 So, yes, I believe maybe once or twice. They were  
 17 definitely there, though, because I remember a  
 18 conversation about her condition after it happened with  
 19 all of them, and it was hysteria, so they were there.  
 20 Q. What was the conversation?  
 21 A. It was about RaiLee's condition when  
 22 everything happened, after everything happened, her  
 23 surgery. We were talking to them about her, and they  
 24 wanted to know what was going on, and it was all

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1 hysteria, tears, and crying. That's the conversation.

2 Q. This was right after the surgery that RaiLee  
3 had?

4 A. (Nodding head.)

5 Q. Is that right?

6 A. Yes.

7 Q. Okay. Were you always with Ms. Mar when you  
8 visited RaiLee in the NICU?

9 A. I was.

10 Q. There was no time where you visited her by  
11 yourself?

12 A. Me personally?

13 Q. Yes.

14 A. No.

15 Q. Was there a time when your mother and  
16 father -- stepfather were with RaiLee when you or your  
17 wife were not there?

18 A. Not to my knowledge, no.

19 Q. When did you first meet RaiLee's medical team?

20 A. The day of her being admitted into the NICU.

21 Q. Do you understand she was being monitored 24  
22 hours a day in the NICU?

23 A. Yes.

24 Q. Was that your understanding at the time?

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1 Q. When you first spoke with the doctor when she  
2 was admitted, when RaiLee was admitted to the NICU, do  
3 you recall the nature of that conversation?

4 A. She was premature, and she was going to be  
5 monitored until she was brought up to birth weight to  
6 be let home, let go home. Standard premature stuff  
7 that I thought, you know.

8 Q. Did they talk to you anything about the risks  
9 of prematurity and what sort of conditions she might  
10 end up -- they would be on the watch for?

11 A. Yes.

12 Q. Okay. What sort of conditions were they  
13 looking out for?

14 A. Just the low birth weight, the being smaller,  
15 potential risks to other health conditions as they got  
16 older, I guess. I mean, just standard watch your baby  
17 stuff.

18 Q. What sort -- I guess I'm wondering, did they  
19 talk specifically about, for example, lung injuries or  
20 gastrointestinal injuries or anything like that --

21 A. No.

22 Q. -- that they would be on the lookout for?

23 A. Not that I recall.

24 Q. Not that you recall.

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1 A. Yes.

2 Q. Okay. Do you know how many medical  
3 professionals were on RaiLee's care team?

4 A. No.

5 Q. Did you have any interactions with the  
6 neonatologists on her team?

7 A. No, unless you count the nurses, but --

8 Q. Okay. I'm talking about the doctors.

9 A. Dr. Azuga (phonetic) or -- I can't remember  
10 his name, but the doctors talked to us once, yes. And  
11 then, of course, after everything happened, we had  
12 direct face-to-face with the doctors then.

13 Q. So right at the beginning, you spoke with the  
14 doctors?

15 A. Yes.

16 Q. And then after everything happened, you spoke  
17 with the doctors?

18 A. Yes.

19 Q. Any time in between there that you recall?

20 A. It was all correspondence with nursing staff  
21 at that point.

22 Q. Did you speak to any dietitians or  
23 nutritionists? Do you recall?

24 A. I wouldn't -- I couldn't remember titles, no.

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1 Do you know how many -- do you recall how many  
2 nurses you interacted with over there?

3 A. No, I do not.

4 Q. Do you think -- did you feel at the time like  
5 they were providing RaiLee with the best care  
6 available?

7 A. I do.

8 MR. ROJAS: Objection.

9 Q. And do you think that today?

10 A. I do.

11 MR. ROJAS: Objection.

12 Q. Do you feel that they communicated with you  
13 appropriately?

14 A. I'm unsure.

15 Q. Okay. And why are you unsure?

16 A. Because I'm unsure.

17 Q. I mean, is there a particular circumstance  
18 where you felt like the communication could have been  
19 better?

20 A. Yes.

21 Q. Okay. And can you describe that to me? If  
22 you want, we can take a break and we can come back to  
23 this, if that makes it easier.

24 A. My daughter is dead. I no longer have her



1 with me. My family was destroyed. There could have  
2 been much more communication on all parts. And to  
3 deny -- nope. I need a break.

4 MS. RURKA: Okay. We can take a break.

5 THE VIDEOGRAPHER: The time is 10:08 a.m.  
6 We are off the record.

7 (Off the record.)

8 THE VIDEOGRAPHER: The time is 10:15 a.m.  
9 We are on the record.

10 BY MS. RURKA:

11 Q. Thanks, Mr. Mar. Before you left, we were  
12 talking about communication, and my question to you  
13 was: Did you feel like the hospital communicated with  
14 you adequately about RaiLee? And I think you said you  
15 did not. Is that fair?

16 A. The hospital, I believe, did everything to the  
17 best of their ability with the information that they  
18 were given, yes.

19 Q. The information they were given by whom?

20 A. Well, I'm not a doctor, so I couldn't tell you  
21 who. I don't know who they get their training from.  
22 That's what I'm saying, like.

23 Q. What do you -- what information do you think  
24 they didn't get that they needed?

1 Q. And you didn't do any research on whether or  
2 not that was true. Is that fair?

3 A. No, I didn't do any research on that.

4 Q. Okay. Do you have any knowledge of what sort  
5 of communications or what sort of information the  
6 hospital or the hospital staff had about NEC and  
7 formula?

8 A. No.

9 Q. Did you feel like you could ask the medical  
10 staff questions and they would answer you honestly?

11 A. Yes.

12 Q. And is it fair to say that you relied on their  
13 education and experience in treating RaiLee to the best  
14 of their abilities?

15 A. Yes.

16 Q. Did you ever second-guess their treatment  
17 decisions?

18 A. I mean, just like any father or mother,  
19 whenever your infant child is put under the knife, so  
20 to speak, yes, you question that in every aspect. It  
21 doesn't matter. So --

22 Q. I guess -- and I totally understand that. I  
23 was asking something slightly differently.

24 Did you ever kind of go to them and say, "I don't

1 A. I'm not a doctor. I couldn't tell you,  
2 because everything that happened with RaiLee, I didn't  
3 know what was going on. I'm not a doctor, again.

4 Q. No, I understand that. I'm just trying to get  
5 a handle on what --

6 A. I can't answer your question if I don't have  
7 the information to answer the question appropriately.

8 Q. Okay. Do you feel like there was any  
9 information that they didn't have that they should have  
10 had?

11 A. I don't know.

12 Q. Okay. Have you done any research on NEC  
13 since -- since RaiLee passed away?

14 A. Initially, right after, yes, but not since,  
15 and I couldn't recall what I've read.

16 Q. Okay. Have you done any since you knew about  
17 this lawsuit?

18 A. No.

19 Q. Have you read anything about the lawsuit?

20 A. No.

21 Q. And you do understand what the allegations are  
22 in the lawsuit, though, that the formula caused the  
23 NEC?

24 A. I understand that, yes.

1 want this," or "I don't want that," or tell them that  
2 you wanted a different treatment for RaiLee? Do you  
3 recall?

4 A. Just that whenever she stopped producing as  
5 much milk as she could, we asked about other options  
6 for that.

7 Q. What sort of -- what did they say about other  
8 options?

9 A. I couldn't recall, other than just the breast  
10 milk and formula and then, I guess, donor programs,  
11 things like that, if they existed, but that's more or  
12 less something that Ericka was looking into.

13 Q. Do you recall anything about donor programs,  
14 donor milk programs?

15 A. Programs, no. I don't recall like a full  
16 program we were instituted into or applied for or  
17 anything, at all, no.

18 Q. Do you recall the hospital saying anything  
19 about donor milk?

20 A. The Christina girl across from us. That's all  
21 I can recall about donor milk there. She offered.

22 Q. Okay. Do you recall -- I guess I'm asking  
23 more about whether the hospital had pasteurized donor  
24 milk available for the infant or anything like that.

MR. ROJAS: Objection.

A. I don't recall.

Q. What did the hospital say about Christina's donor milk?

A. That was a conversation Ericka and Christina and the doctors had when I wasn't there, so --

Q. You don't have personal knowledge of --

A. No personal knowledge. I know that it was offered.

Q. Okay. And we had talked -- I guess I didn't ask this question, but I know this is kind of within it. We had talked earlier about Athena and Reidon.

A. "Reidon."

Q. Reidon. I'm sorry. I'm sorry. I'm very bad with names, but I apologize for that.

We talked about Athena and Reidon. And for RaiLee, did Ms. Mar try to breastfeed RaiLee or provide breast milk for RaiLee?

A. Yes.

Q. Okay. And what, to your knowledge, did she do for that?

A. She tried to provide initially with pumping, as they told her, because she couldn't latch, I guess, where she was premature or something.

MR. ROJAS: Objection.

A. Yeah.

Q. I mean, they had to feed RaiLee something. Would you agree with that?

A. Yes.

Q. Okay. And is it fair to say you relied on the NICU team to determine what was the best nutrition available after the breast milk ran dry?

A. Yes.

Q. Do you recall any discussions with RaiLee's doctors about the decision to give her formula?

A. No.

Q. Do you remember asking them any questions about what RaiLee would be fed after the -- after Ms. Mar was unable to pump sufficient --

A. I know that we -- I remember asking about what kind it was going to have to be or if it was, like, going to have to be a special kind, because Athena had a sensitive belly, so she had to have a sensitive formula. That's the only questioning that I remember asking.

Q. Were you ever present when RaiLee received formula?

A. Yes.

It was just -- she pumped, and she pumped what she could, and she stopped producing, and it -- she's just always had issues with producing milk for the babies. That's it.

Q. Is it your opinion that she did everything she could to produce --

A. It is my opinion that she did everything she did to produce.

Q. Okay. Do you remember seeing -- do you remember an issue with her having blood in her breast milk? Does that ring a bell?

A. I couldn't tell you for sure, no.

Q. Do you know if -- so if you don't remember that, do you remember anybody saying that the -- that breast milk with blood in it could not be fed to the baby?

MR. ROJAS: Objection.

A. I don't remember anything like that, no.

Q. And is it correct that when Ms. Mar was unable to pump any more milk, she stopped because she wasn't able to pump any more?

A. She couldn't produce any more, so --

Q. After she stopped pumping breast milk, did you defer to the doctors about what RaiLee should be fed?

Q. Do you know how the formula was administered?

A. A little plastic bottle with a big round top on it.

Q. Okay.

A. And that was before -- yeah, yeah. That was -- I think that's what it was. It had a silver thing on top of it too.

Q. Do you know how much formula she was administered --

A. No.

Q. -- during her time?

A. I don't.

Q. Were you aware that formula was mixed with breast milk for RaiLee?

A. I was not.

Q. Were you aware that RaiLee never got just formula, she got formula mixed with breast milk every time she got it?

A. I assume that's what happened, yes.

Q. Okay. Did you ever personally feed RaiLee?

A. We were never given the chance after everything happened, no.

Q. Okay. Did you ever say anything about her not -- that you thought she shouldn't be given formula?

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1 A. Initially, with the breast milk, of course, we  
2 wanted to try that avenue first. And I wasn't aware, I  
3 guess, that breast milk was mixed with formula. Either  
4 that or I'm not remembering at this point, but --

5 Q. Okay. So was there a time when you knew the  
6 doctors wanted to give RaiLee some formula that you  
7 said, "I don't want her to have formula"?

8 A. I don't remember that ever happening, no.

9 Q. Did you rely on the NICU team to monitor how  
10 well RaiLee was doing with the formula?

11 A. Yes.

12 Q. Did you believe the doctors and nurses were in  
13 a better position to determine whether or not the  
14 formula was going to work for her than you were?

15 MR. ROJAS: Objection.

16 A. Yes.

17 Q. Ms. Mar testified she never saw any of the  
18 packaging or labels for the formula that RaiLee was  
19 administered, and I assume you didn't either. Is that  
20 right?

21 MR. ROJAS: Objection.

22 A. I did not. No.

23 Q. Okay. Sorry. I'll re-ask the question.

24 Did you see any of the packaging or labeling for

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1 the formula that RaiLee was administered?

2 A. No specific labels or packaging, no.

3 Q. Sorry. Just give me one second.

4 We had talked about Christina. Christina -- is  
5 that Stanley? Does that sound right?

6 A. Yes.

7 Q. And was she a friend of Ms. Mar's before the  
8 NICU?

9 A. No.

10 Q. They met in the NICU?

11 A. Yes.

12 Q. Okay. Did you meet Ms. Stanley?

13 A. Yes.

14 Q. Did you speak with her at all?

15 A. Very little.

16 Q. Okay. Do you recall what you discussed with  
17 her?

18 A. Just her kid, my kid. Stuff like that. Her  
19 and Ericka talking. Just general conversation things.  
20 That's what I talked to her about.

21 Q. Okay. And you -- that was discussions while  
22 you were in the NICU together; is that right?

23 A. In the NICU together or outside in the waiting  
24 room.

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1 Q. Okay. Have you maintained a relationship with  
2 Ms. Stanley since then?

3 A. I have not, no.

4 Q. Has Ms. Mar?

5 A. I believe she has.

6 Q. Okay. And you mentioned something about  
7 Ms. Mar saying -- saying to you something about  
8 Ms. Stanley offering her donor milk?

9 A. I believe so.

10 Q. Okay. What do you recall about that  
11 conversation?

12 A. Just that it was something that came up in  
13 conversation, and I don't know what happened of it. I  
14 just know that it came up in conversation, and I'm  
15 assuming it was thrown out since, you know, the donor  
16 milk was never given to her.

17 Q. Okay. So let's talk a little bit about --  
18 this is going to be difficult for you. I mean, I know  
19 all of this is difficult, but I do have to ask these  
20 questions.

21 So I wanted to talk to you a little bit about what  
22 happened right before the NEC diagnosis. Do you  
23 remember that, at the time, that the water in  
24 Charleston couldn't be used?

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1 A. I remember.

2 MR. ROJAS: Objection.

3 Q. What is your recollection of that?

4 MR. ROJAS: Objection.

5 A. It just couldn't be used, and they took us to  
6 a -- put us in a hotel instead of the Ronald McDonald  
7 House.

8 Q. Okay. Ms. Mar, you took her from Charleston  
9 back home that day. Is that -- or right around there.  
10 January 12th or something?

11 A. Yeah. To figure out -- until they figured out  
12 where they could put her in place of the Ronald  
13 McDonald House, yes, and she took a shower, got a  
14 change of clothes.

15 Q. Okay. And then is it correct that you both  
16 stayed home until you got a call that RaiLee had NEC on  
17 the morning of January 14th? Does that sound right?

18 A. We were in the hotel when we found out.

19 Q. You were in the hotel?

20 A. Yeah.

21 Q. Where was -- the hotel was in Charleston?

22 A. In Charleston. I don't remember the name of  
23 it. I know it was an, I think, Embassy.

24 Q. Embassy Suites?

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1 A. I think so, yes.  
 2 Q. So you were not at home. You were in  
 3 Charleston when you got the call; is that right?  
 4 A. Yes.  
 5 Q. And did you go immediately to the hospital  
 6 then?  
 7 A. Yes.  
 8 Q. And what did the doctors say to you about  
 9 RaiLee when you got to the hospital? Do you recall?  
 10 A. We had a discussion. We met with the surgeon,  
 11 and the surgeon told us what was going to have to  
 12 happen, and then they went and did their thing. We  
 13 waited. They told us whenever she was done, and they  
 14 explained to us what they had done to her.  
 15 Q. What did they say had happened to her?  
 16 I'm sorry. Let me just reread the question.  
 17 Okay. What did they say was going to have to happen?  
 18 Sorry. I just misunderstood what you had said.  
 19 A. With her surgery?  
 20 Q. Yes.  
 21 A. That they were going to have to go in and  
 22 remove parts of her intestine.  
 23 Q. Okay. And this was -- did they tell you this  
 24 was because of NEC?

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1 it was somewhere along the lines of 60 to 70 percent of  
 2 one of her intestines and then 20 percent of the other  
 3 one, like big and small, and she was on a ventilator,  
 4 and that she was fighting the ventilator. Yes.  
 5 Q. Did you eventually go back to the Ronald  
 6 McDonald House after that?  
 7 A. No. We went back to Embassy Suites.  
 8 Q. Okay. When did you go back to the Embassy  
 9 Suites? Do you recall?  
 10 A. The evening before her death.  
 11 Q. And you -- did you have any way to get updates  
 12 about her condition?  
 13 A. From the doctors?  
 14 Q. Yes.  
 15 A. No. They sent a police officer.  
 16 Q. Okay. So can you explain to me what happened  
 17 with the police officer?  
 18 A. We were sleeping. We got a knock, knock,  
 19 knock on the door. I go to open the door in the hotel.  
 20 Why is somebody knocking on my door this late at night?  
 21 And he is standing there, and he immediately  
 22 apologized, said, "I'm sorry, but I need you guys to  
 23 follow me." He turned his blue lights on, and we  
 24 followed him, followed him.

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1 A. Yes.  
 2 Q. Okay. And then did they tell you anything  
 3 about what they expected or what sort of possible  
 4 consequences could come?  
 5 A. Yes.  
 6 Q. What did they say?  
 7 A. That she would potentially have an external  
 8 colostomy bag for the first few years of her life, and  
 9 if she healed properly, she could eventually grow out  
 10 of that, but it was going to be a big issue dealing  
 11 with her going forward, and that's something we were  
 12 prepared for.  
 13 Q. Did you stay in the NICU then once you got  
 14 that --  
 15 A. In the waiting area.  
 16 Q. Okay. Did you visit RaiLee after the surgery?  
 17 A. Yes.  
 18 Q. Okay. With Ms. Mar?  
 19 A. Yes.  
 20 Q. And did you have any conversations about how  
 21 the surgery went with the doctor?  
 22 A. Yes.  
 23 Q. What were those conversations?  
 24 A. They told us that -- what they had to do, and

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1 Q. Okay. No, I understand that. I just -- I'm  
 2 just trying to get kind of the details of that. Do you  
 3 know why the hospital didn't call you? This was -- the  
 4 police officer -- I'm sorry. Let's back up.  
 5 The police officer was sent by the hospital. Is  
 6 that your understanding?  
 7 A. It was an emergency.  
 8 Q. Right.  
 9 A. Everything that happened. They told us that  
 10 we needed to see her. Come see your daughter.  
 11 Q. Right. I'm --  
 12 A. So they sent somebody.  
 13 Q. Okay.  
 14 A. And that's probably because they called, and  
 15 when they called, our phones didn't ring or we didn't  
 16 wake up because of a phone call. But they sent  
 17 somebody. They knew where we were at because they put  
 18 us there.  
 19 Q. No, I understand that. I just wanted to  
 20 figure out why it was that the police came instead of  
 21 them calling you. So you're saying they called you and  
 22 you were asleep?  
 23 A. Yeah. And we were -- honestly, it might have  
 24 been the Ronald McDonald House, because I know that we

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1 had two beds next to each other, and we were sleeping  
2 in the one close to the door, and I got up and went to  
3 the door. And I know the Embassy Suites was set up  
4 differently, so --

5 Q. Okay. So --

6 A. Yeah, just saying.

7 Q. I'm sorry. Just to clarify, so when they --  
8 when you returned from the hospital, you went to the  
9 Ronald McDonald House. Is that your recollection now?

10 A. I believe so, yes.

11 Q. And then you fell asleep; is that right?

12 A. Yeah.

13 Q. And then you think someone may have called  
14 you, but you didn't get the phone calls? Is that --

15 A. We may have just not woke up. We were  
16 dog-tired right after everything that had happened, you  
17 know, and we were waiting; we waited for the entire  
18 surgery and everything else that happened. Then we had  
19 seen her when she was on the ventilator, and we needed  
20 sleep.

21 Q. Okay. And so that -- because they couldn't  
22 reach you by phone, they sent a police officer?

23 A. I'm assuming that's why they sent the officer,  
24 yes.

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1 area, and then again we went back in to see her, and  
2 then we left. And whenever we did leave, then we  
3 received everything else, all the information for our  
4 baby being gone.

5 Q. Okay. Okay. All right. Thank you.

6 A. Sorry.

7 Q. No, no. That's okay.

8 A. I wanted to make sure I got it right.

9 Q. No, it's hard to remember this stuff, and I  
10 just wanted to make sure I got it right too. So thank  
11 you. Thank you for that clarification.

12 So you weren't -- I guess my question is: You  
13 were not there when she passed away; is that correct?

14 A. No, we weren't in the NICU when she passed  
15 away. No.

16 Q. Was your mom there?

17 A. She was there, yes.

18 Q. Okay. And was your father-in-law -- or I mean  
19 your stepfather there too?

20 A. He wasn't back in the NICU, no, but he was  
21 there because he drove her.

22 Q. Okay. So your mother was with her when she  
23 passed -- when she passed; is that right?

24 A. She wasn't with her, no, but she was, like, at

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1 Q. Okay. Okay. And then you immediately  
2 followed the police officer over to the hospital to see  
3 RaiLee, and she had already passed at that point. Is  
4 that fair?

5 A. No.

6 Q. No. She was still alive?

7 A. No. The police officer came to get us for the  
8 surgery.

9 Q. I'm sorry?

10 A. For the surgery. That was the emergency.  
11 They needed our permission to perform this emergency  
12 surgery on our daughter, so they needed to get us  
13 there, and then we stayed there.

14 Q. Okay. So maybe I have the timeline wrong. I  
15 thought you said that she had the surgery, you saw her,  
16 and then you left because you were tired and went back  
17 to the Ronald McDonald House.

18 A. The police officer escorted us to the hospital  
19 for the reason of making sure we were there to be told  
20 and given all the information about this emergency  
21 surgery with my daughter, and then we stayed there.

22 Q. Okay.

23 A. Then we went in to see her on the ventilator,  
24 and then we came back out. We were in the waiting

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1 the hospital.

2 Q. At the hospital.

3 A. She was going to be visiting her. Like, she  
4 was going to be signing in to visit her and everything.  
5 She was there before we were there.

6 Q. So did you -- did you get a phone call that  
7 she had passed? Is that -- how did you --

8 A. We were told we needed to come to the  
9 hospital. We were just told we needed to come to the  
10 hospital. That's it.

11 Q. Okay. And then you came to the hospital?

12 A. Then we went to the hospital, and that's when  
13 we were given, obviously, the sensitive information.

14 Q. Okay. Did they tell you what the cause of  
15 death was?

16 A. No. NEC.

17 Q. Did they tell you that? Do you recall?

18 A. I don't recall them telling me that, no. I  
19 wasn't listening to anybody at that point.

20 Q. Right. I understand that. I just am trying  
21 to figure out if you recall anything about what they  
22 told you.

23 Did they tell you anything about formula causing  
24 the NEC or anything like that?



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1 A. No, they didn't tell me anything. If they  
2 did, I don't recall.  
3 Q. Okay. When did you first hear about NEC?  
4 A. When they told us about it in the NICU.  
5 Q. From -- so let me take a step back. My  
6 question is very general. Is that the first time you  
7 had ever heard of NEC --  
8 A. Yes.  
9 Q. -- was when RaiLee got it?  
10 A. Yes.  
11 Q. Okay. And do you recall any conversations  
12 about what it was with the doctors or what it could do?  
13 A. No.  
14 Q. Did you speak with anyone else about NEC at  
15 that time?  
16 A. No.  
17 Q. And what is your current understanding of what  
18 NEC is?  
19 A. It tears you apart on the inside. It's a  
20 gastrointestinal issue, right? That's what I believe.  
21 That's what I -- my experience with what happened to my  
22 daughter. That's what I know NEC is.  
23 Q. Did the doctors ever tell you what caused the  
24 NEC?

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1 Q. Okay. Can you tell me a little bit about what  
2 you did to look into what Abbott was?  
3 A. Just a Google search.  
4 Q. What did you find?  
5 A. I just went down the rabbit hole and started  
6 reading about it and what they do and what they produce  
7 and their company and what it is, and obviously, that  
8 fell under the subcategory of what my daughter was  
9 given. And then I'm -- two plus two with everything on  
10 the lawsuit, and that's my conclusion. And that's a  
11 personal opinion, and I'm allowed to have that, I  
12 believe.  
13 Q. No, I understand that. I'm just trying to  
14 kind of get a sense of where you understood this from.  
15 Was it based on -- did you read things about the  
16 lawsuits that have been going on?  
17 A. No. I didn't even know about it being a mass  
18 lawsuit or other cases. I just was looking, more or  
19 less, into my case with my daughter and my family.  
20 Q. Okay. This was after you had learned about  
21 this lawsuit, though. Is that fair?  
22 A. It's after I learned about what Abbott was,  
23 yes.  
24 Q. I'm sorry. Let me just make sure I have the

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1 A. No.  
2 Q. Do you have a belief today about what caused  
3 the NEC?  
4 A. Yes.  
5 Q. What is your belief?  
6 A. That she was given something that she  
7 shouldn't have had.  
8 Q. What is that?  
9 A. That formula.  
10 Q. So it's your belief that formula causes NEC?  
11 A. Not all formula, but -- I don't know. I know  
12 something happened to my daughter that shouldn't have  
13 happened to her. So it is my belief that, yes, that  
14 formula caused it.  
15 Q. And when did you develop that belief?  
16 A. Recently.  
17 Q. What caused you to develop that belief?  
18 A. Everything going on with this.  
19 Q. The lawsuit?  
20 A. The lawsuit, yes.  
21 Q. Okay. And was that based on a discussion that  
22 you had with Ericka?  
23 A. That was based on my discussion of how I  
24 looked into what Abbott was.

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1 timing right.  
2 After you learned that this lawsuit was being  
3 filed, that's when you did the Abbott rabbit hole  
4 search?  
5 A. Yes.  
6 Q. Okay. Are you planning to seek damages in  
7 this matter for your --  
8 A. I'm planning to get my daughter -- sorry.  
9 Q. I'm sorry. Let me just finish the question.  
10 I know this is, again, an unnatural exercise, and I  
11 understand it's not easy, but I just have to get the  
12 question out before you answer it.  
13 Are you planning to seek damages for your own  
14 mental or emotional injuries?  
15 A. I don't care about damages. I care about  
16 getting my daughter's story told because it needs told,  
17 because obviously it's not just her story.  
18 Q. Do you know of something that Ms. Mar refers  
19 to as the "Forever Book"?  
20 A. I do.  
21 Q. Okay. What is the Forever Book?  
22 A. It's something that she was pouring all of her  
23 sadness and memories in for RaiLee and just to try to  
24 keep her alive.

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1 Q. Did you write in the Forever Book yourself?  
 2 A. I think I wrote maybe one or two pages, yes.  
 3 Q. Do you need this book to remember your  
 4 feelings at the time?  
 5 A. What did you just ask me?  
 6 MR. ROJAS: Objection.  
 7 Q. I'm sorry. Do you need the Forever Book to  
 8 help remember your feelings --  
 9 MR. ROJAS: Objection.  
 10 Q. -- at the time?  
 11 A. No.  
 12 Q. Okay. You and Ms. Mar are no longer married;  
 13 is that right?  
 14 A. We are not.  
 15 Q. Okay. How long were you married?  
 16 A. Seven years.  
 17 Q. And when did the two of you separate?  
 18 A. 2017, 2018, I think.  
 19 Q. That was about four years after RaiLee passed  
 20 away?  
 21 A. Yeah.  
 22 Q. Three or four?  
 23 A. On or off, I mean. Our official separation,  
 24 anyway. We were -- yeah.

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1 Q. I understand, and I understand that this is a  
 2 difficult topic. So, again, I apologize. I do have to  
 3 ask these questions. We'll try to get through this as  
 4 fast as possible.  
 5 Do you know how, how that happened?  
 6 A. No.  
 7 Q. Okay. And can I ask you, do you feel like you  
 8 need answers or closure to RaiLee's death and that this  
 9 lawsuit will bring that for you?  
 10 MR. ROJAS: Objection.  
 11 A. Nothing is ever going to bring me the closure  
 12 that I need.  
 13 Q. Do you think this lawsuit will help with that?  
 14 MR. ROJAS: Objection.  
 15 A. How is that a relevant question, honestly?  
 16 Because I just told you, nothing is going to give me  
 17 closure or give me any semblance of closure. My  
 18 daughter is gone. My family was destroyed.  
 19 Q. I understand. I'm just trying to get a sense  
 20 of where you are on the lawsuit in particular.  
 21 A. I don't really care about the lawsuit. I care  
 22 about my story, my daughter's story.  
 23 Q. Do you know anything about Ms. Mar's  
 24 relationships after you separated?

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1 Q. Okay. Are you officially divorced right now,  
 2 or are you still --  
 3 A. Yeah. As of a couple months ago, actually.  
 4 Q. Okay. You had -- you had a child after  
 5 RaiLee's death; right?  
 6 A. Yes.  
 7 Q. And then what was the reason for the divorce,  
 8 if you don't mind -- I know this is a sensitive topic,  
 9 but can you give me in your words what the reason for  
 10 the divorce was?  
 11 A. We couldn't pull ourselves back together.  
 12 Q. Back together after --  
 13 A. After RaiLee.  
 14 Q. Okay. Are you aware that Ms. Mar attempted  
 15 suicide after RaiLee's death?  
 16 A. I believe she --  
 17 MR. ROJAS: Objection.  
 18 A. -- has told me before, yes.  
 19 Q. Okay. What did she tell you?  
 20 MR. ROJAS: Objection.  
 21 A. I mean, she told me that she tried to kill  
 22 herself. We had just lost our daughter, her child,  
 23 somebody she had carried in her belly, you know, a part  
 24 of her.

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1 A. A little bit, yes.  
 2 Q. What do you know?  
 3 A. Enough.  
 4 Q. What does that mean?  
 5 A. That she has been in two relationships since  
 6 me and that they have been rocky.  
 7 Q. Do you know Tyler Fleming?  
 8 A. I do.  
 9 Q. Okay. And what do you know about Tyler  
 10 Fleming?  
 11 MR. ROJAS: Objection.  
 12 A. That she got with him after me and they had  
 13 another kid together. That's it.  
 14 Q. Has she ever spoken to you about her  
 15 relationship with Tyler?  
 16 MR. ROJAS: Objection.  
 17 A. On occasion.  
 18 Q. And what has she told you?  
 19 MR. ROJAS: Objection.  
 20 A. She has talked to me about things that  
 21 happened with her and Tyler.  
 22 Q. What sort of things?  
 23 MR. ROJAS: Objection.  
 24 A. Personal things.



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1 Q. Did she tell you that he was emotionally  
2 abusive to her?

3 MR. ROJAS: Objection.

4 A. She has before, yes.

5 Q. Has she told you that he was physically  
6 abusive?

7 MR. ROJAS: Objection.

8 A. Yes.

9 Q. Do you know whether Ms. Mar had a difficult  
10 childhood?

11 A. Yes.

12 Q. What do you know about that?

13 A. Not much.

14 Q. Did she talk to you about --

15 A. Adoption, and her parents were her  
16 grandparents. Yeah.

17 Q. Do you know whether she had mental health  
18 issues prior to RaiLee's death?

19 A. Prior to RaiLee's death?

20 Q. Yes.

21 A. No.

22 Q. You don't know?

23 A. I don't know.

24 Q. Do you know whether she had ever attempted

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1 suicide prior to RaiLee's death?

2 A. Prior to RaiLee's death? I'm sure that  
3 discussion has happened before, but I don't think she  
4 ever attempted it when we were together before RaiLee's  
5 death, no.

6 Q. Okay. So I'm not talking about when you were  
7 together. I'm just talking about any time.

8 A. Then, no, I don't know.

9 Q. Okay. Do you know whether she's been formally  
10 diagnosed with mental health conditions?

11 A. Since after, or when we were together, or  
12 before?

13 Q. How about -- let's try before you were  
14 together.

15 A. I don't know.

16 Q. How about when you were together?

17 A. No.

18 Q. How about after?

19 A. I don't know.

20 Q. And then I think you said you see Athena and  
21 Reidon --

22 A. "Reidon."

23 Q. Reidon. I'm sorry.

24 You see Athena and Reidon regularly?

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1 A. Regularly.

2 Q. How often?

3 A. Every other week or every weekend. Well,  
4 every other weekend or every weekend when I can.

5 Q. And what is the custody arrangement with them?

6 A. Every other -- every holiday, every birthday,  
7 and then every summer break. Every other weekend.

8 Q. Do you have child -- do you pay child support?

9 A. I do.

10 Q. Okay. And are you up to date on child support  
11 with them?

12 MR. ROJAS: Objection.

13 A. I'm a little bit behind.

14 Q. Have you missed any payments?

15 MR. ROJAS: Objection.

16 A. I'm a little bit behind.

17 Q. How behind are you?

18 MR. ROJAS: Objection.

19 A. A little bit behind.

20 Q. I mean, what does that mean?

21 A. A couple months.

22 MS. RURKA: Okay. Why don't we take a  
23 break, and hopefully I can wrap up. Okay? 10 minutes.

24 THE VIDEOGRAPHER: The time is 10:47 a.m.

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1 We are off the record.

2 (Off the record.)

3 THE VIDEOGRAPHER: The time is 10:58 a.m.

4 We are on the record.

5 BY MS. RURKA:

6 Q. Mr. Mar, is it true that Ms. Mar keeps --  
7 regularly keeps you updated about the progress of this  
8 lawsuit?

9 MR. ROJAS: Objection.

10 A. No.

11 Q. No?

12 A. No.

13 Q. Okay. And is it true that you relied on her  
14 to make the medical decisions for RaiLee?

15 MR. ROJAS: Objection.

16 A. No.

17 MR. ROJAS: I'm sorry. I didn't hear the  
18 answer.

19 THE COURT REPORTER: It was "No."

20 MR. ROJAS: Okay.

21 BY MS. RURKA:

22 Q. Is it true that you didn't make any of the  
23 medical decisions for her?

24 MR. ROJAS: Objection.

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1 A. I didn't sign any paperwork, no.  
 2 Q. But you did participate in the medical  
 3 decision-making for her?  
 4 A. Of course.  
 5 Q. I want to show you what I'm going to mark  
 6 as -- I will mark it as Anthony Mar Exhibit 1.  
 7 (Anthony Mar Exhibit No. 1 marked for  
 8 identification.)  
 9 BY MS. RURKA:  
 10 Q. And I'll ask you if you have seen that before.  
 11 Have you seen this before?  
 12 A. No.  
 13 Q. Okay. If you go to page 20, which is the  
 14 second-to-last page, I think, do you see where it says  
 15 "Preparation of Fact Sheet"?  
 16 A. Yeah.  
 17 Q. It says, "Please provide the name and address  
 18 of any non-party other than counsel who provided  
 19 information contained within or assisted with preparing  
 20 this fact sheet."  
 21 Do you see that?  
 22 A. I see that.  
 23 Q. And your name is there?  
 24 A. Yeah.

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1 Mr. Rojas, I may have questions following up his  
 2 questioning of you, but otherwise, I'm done for now.  
 3 EXAMINATION  
 4 BY MR. ROJAS:  
 5 Q. Okay. Anthony, I have an opportunity to ask  
 6 some questions now, as I briefly discussed with you off  
 7 the record. I don't think I'm going to go through a  
 8 lot of it just to -- I don't think it requires much  
 9 clarification, but I do have some follow-up questions.  
 10 Is that okay?  
 11 A. That's fine.  
 12 Q. Okay. So you referenced a bottle that you saw  
 13 in the NICU.  
 14 MR. ROJAS: Can we mark this as  
 15 Plaintiff's Exhibit 1?  
 16 (Plaintiff's Exhibit No. 1 marked for  
 17 identification.)  
 18 BY MR. ROJAS:  
 19 Q. So I'm showing you what's been marked as  
 20 Plaintiff's Exhibit 1, which is just a bottle of  
 21 Similac Special Care Premature 24. Does -- can you  
 22 just take a look at that.  
 23 How -- what you testified about, how does it  
 24 differ from what you're looking at right there --

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1 Q. Do you recall assisting with preparation of  
 2 the fact sheet?  
 3 A. If she asked me questions and I gave them  
 4 answers or she probably already had the information.  
 5 We were together for 10 years, married for seven, have  
 6 three kids together, so --  
 7 Q. So, I'm sorry, I'm just trying to -- did you  
 8 assist in preparing it? Do you recall?  
 9 A. Not directly.  
 10 Q. Okay. Do you recall --  
 11 A. I gave her the information she needed, though,  
 12 yes.  
 13 Q. Okay. So -- and did you understand when you  
 14 gave her that information that that's what this was  
 15 for?  
 16 A. Not at the time, I guess.  
 17 Q. Did you understand it was for a lawsuit,  
 18 though?  
 19 A. No.  
 20 Q. Okay. So you didn't review this for accuracy  
 21 before she submitted it. Is that fair?  
 22 A. That's fair. It's accurate, though.  
 23 Q. It is accurate. Okay. Thank you.  
 24 MS. RURKA: Subject to questioning from

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1 MS. RURKA: Objection.  
 2 Q. -- if at all?  
 3 MS. RURKA: Form.  
 4 A. It doesn't.  
 5 Q. So you saw something -- did you see something  
 6 similar to that?  
 7 A. Yes.  
 8 MS. RURKA: Objection. Mischaracterizes  
 9 testimony.  
 10 Q. Okay. Let me just ask it this way, then,  
 11 given the objection from counsel. That bottle that  
 12 you're seeing that I have just demonstrated, does it  
 13 look similar to anything you have seen in the past?  
 14 A. Yes.  
 15 MS. RURKA: Objection. Form.  
 16 Q. I'm sorry?  
 17 A. Yes.  
 18 Q. Okay. And what does it look similar to that  
 19 you have seen in the past?  
 20 MS. RURKA: Objection. Form.  
 21 A. A formula bottle in the NICU.  
 22 Q. All right. You talked about a Christina that  
 23 had offered her milk to be used for RaiLee. Do you  
 24 recall that?

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1 A. I recall that, yes.  
 2 Q. All right. And were you ever prior to -- were  
 3 you ever told of the risks of formula associated with  
 4 necrotizing enterocolitis?  
 5 A. I was not.  
 6 Q. And if you had been warned of the risk of  
 7 formula relative to necrotizing enterocolitis, is there  
 8 anything you think you would have done differently?  
 9 A. Everything.  
 10 Q. Can you give me a little bit better  
 11 understanding?  
 12 MS. RURKA: Objection to form.  
 13 A. If I had been given that information, I would  
 14 have pursued -- and Ericka would have as well, I know  
 15 she would have -- different avenues to feed our  
 16 daughter and to make sure she got the nutrition that  
 17 she needed.  
 18 Q. Okay. And you understand that, in this case,  
 19 Ericka had run out of -- was -- there was not a whole  
 20 lot of Ericka's breast milk left --  
 21 A. Exactly.  
 22 Q. -- at the time that the formula was fed? Did  
 23 you know that?  
 24 A. I understand that, yes.

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1 A. In passing.  
 2 Q. In passing how?  
 3 A. In -- while we were in the NICU, if they were  
 4 giving feedings out during the time, because we weren't  
 5 allowed to directly feed her ourselves.  
 6 Q. How did you see them giving her feedings of  
 7 that?  
 8 A. They had the bottle out on the thing, like on  
 9 a table next to them, where they had just used it for  
 10 whatever purpose or however they fed her, because I  
 11 know at one point she was on a feeding tube. Yes, I  
 12 know that.  
 13 Q. No. I'm just trying to get a sense of how you  
 14 saw it. Did you see them feeding her that bottle?  
 15 MR. ROJAS: Asked and answered.  
 16 A. That bottle directly?  
 17 Q. No. A bottle like that.  
 18 A. Yes.  
 19 Q. You saw them feeding her a bottle like that?  
 20 A. They were feeding her formula out of a bottle  
 21 like that. I don't know how they fed it to her, but I  
 22 know that I have seen bottles like that in the NICU  
 23 around her bili box.  
 24 Q. Okay. And how did you see them feeding her

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1 Q. Okay. So if the doctors had said to you,  
 2 "Well, we're going to feed formula to feed the baby," I  
 3 mean, what would you have done differently?  
 4 A. I would have told them "No."  
 5 Q. Okay. And how would RaiLee have been fed?  
 6 A. Through a donor system somehow, one way or  
 7 another. They would have found a different way to feed  
 8 my daughter or I would have taken her to a different  
 9 hospital.  
 10 Q. Okay.  
 11 A. The formula -- if I would have been given any  
 12 kind of warning or -- how they correlate together, NEC  
 13 and the formula do, it wouldn't have been a question of  
 14 what I would have done. That wouldn't have been  
 15 allowed near my daughter.  
 16 Q. You would have found a way?  
 17 A. I would have found a way.  
 18 MR. ROJAS: Okay. I don't have any other  
 19 questions.  
 20 EXAMINATION  
 21 BY MS. RURKA:  
 22 Q. Mr. Mar, when did you see that bottle?  
 23 A. When -- in the NICU with my daughter.  
 24 Q. And how did you see it?

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1 out of a bottle like that?  
 2 MR. ROJAS: Objection. Mischaracterizes  
 3 the testimony.  
 4 A. I don't understand the question.  
 5 Q. I'm just trying --  
 6 A. I just told you I didn't see a direct feeding.  
 7 All I know is I have seen this bottle or a bottle  
 8 similar to this around my daughter's bili box when she  
 9 was in the NICU.  
 10 Q. Okay. So you didn't actually observe -- I'm  
 11 just -- I'm sorry.  
 12 A. No.  
 13 Q. Sir, I am sorry. I'm trying to --  
 14 MR. ROJAS: He's answered the question  
 15 three times.  
 16 Q. I know. I'm trying to -- I'm trying to just  
 17 get a sense of what happened. Okay? So I apologize  
 18 for the questions. I understand this is a difficult  
 19 situation for you, but I have to ask these questions.  
 20 MS. RURKA: And, Counsel, I would  
 21 appreciate it if you would keep your tone down a little  
 22 bit. These are fair questions to ask the witness.  
 23 MR. ROJAS: It was a fair question. It's  
 24 not a fair question when you ask the same question

1 three different times.

2 MS. RURKA: I did not ask the same  
3 question three different times. So please refrain from  
4 raising your voice to me.

5 MR. ROJAS: I don't feel I raised my  
6 voice at all.

7 BY MS. RURKA:

8 Q. So, Mr. Mar, I'm trying to get a sense of when  
9 you saw them and how you saw it. Okay?

10 So you did not see the nurse feeding her that, but  
11 you saw that in the room with --

12 A. In her area.

13 MR. ROJAS: Objection. Asked and  
14 answered.

15 Q. In her area. Okay.

16 Did you ask to read it or anything like that?

17 A. No.

18 Q. Did you pick it up?

19 A. No.

20 Q. Okay. Did anyone make it available to you for  
21 reading?

22 A. No.

23 Q. Were you curious about it at all when you saw  
24 it?

1 A. I was not aware of that.

2 Q. Were you aware of the availability of donor  
3 milk generally at the time?

4 A. No.

5 Q. Okay. So you don't have any knowledge today  
6 about what the availability of donor milk was at the  
7 time. Is that fair?

8 A. At the time, no. I don't know what was  
9 available then.

10 Q. If there was nothing else to give her, would  
11 you have agreed with the doctor's decision to give her  
12 that formula?

13 A. Based off of not having the information that I  
14 would need, yes. I mean, it says, "Use as directed by  
15 a doctor."

16 Q. No. If you had --

17 A. Go ahead.

18 Q. Sorry. Let me re-ask it.

19 A. Rephrase.

20 Q. Let me re-ask that.

21 Having the information that you have today, if  
22 there had been nothing else available to feed RaiLee,  
23 would you have agreed with the doctor's decision to  
24 feed her that?

1 A. At the time, I was trusting the doctors, yes.

2 Q. Okay. If you had read it -- well, go ahead  
3 and take a look at it now and tell me what it is you  
4 think about it that's interesting.

5 MR. ROJAS: Objection.

6 A. It has allergy information on here. The  
7 instructions for use. "Use as directed by a doctor."  
8 What am I looking for?

9 Q. I'm just trying to figure out if there's  
10 anything on there that you find --

11 A. No, there's nothing on here that would make me  
12 think that it's bad.

13 Q. Okay. Does "use it as directed by a  
14 doctor" -- would you follow that instruction if that  
15 was given to you?

16 A. Yes.

17 Q. Okay. Other than a donor system or going to a  
18 different hospital, what other avenue would you have  
19 taken to avoid having RaiLee given the formula?

20 A. Any other avenue. I mean, what other avenues  
21 are there outside of a donor system or going to another  
22 hospital? There are none.

23 Q. Okay. And were you aware that there was not a  
24 donor milk system at that hospital?

1 A. No.

2 Q. Okay. So if there was nothing else available,  
3 she would not have gotten fed? Is that what you --

4 A. Are you serious? Because that's not what I  
5 meant.

6 Q. Okay. That's what I'm asking. That's why I  
7 asked the follow-up question. If there was nothing  
8 else available for her to be fed, would you agree with  
9 the doctor's decision to feed her that?

10 A. To feed her that?

11 Q. Yes.

12 A. No.

13 Q. Even if there was nothing else available for  
14 her?

15 A. Come on.

16 Q. That's my question. Sir, I'm sorry. That's  
17 my -- that is literally my --

18 A. I refuse to answer that question, then,  
19 because it's irrelevant. Like that's -- that's -- what  
20 do you mean? If I refuse to -- if I get -- you're  
21 wanting me to say yes to giving her this formula.

22 That's what you want me to say yes to.

23 Q. Sir --

24 A. Because otherwise my daughter starves, right?

1 Q. Sir, I'm just asking you the question. If  
2 your answer is "nothing else," then that's fine. I  
3 just want to make sure you understand the question that  
4 I was asking you.

5 A. I understand the question you're asking me.

6 Q. Okay. And your answer was, if there was  
7 nothing else to feed her, you would say no to that. Is  
8 that right? That's my question.

9 A. Yes.

10 MS. RURKA: Okay. I have no other  
11 questions.

12 MR. ROJAS: Nothing else. Thank you,  
13 Anthony.

14 THE VIDEOGRAPHER: We are off the record  
15 at 11:12 a.m., and this concludes today's testimony.  
16 (Deposition concluded at 11:12 a.m.)  
17  
18  
19  
20  
21  
22  
23  
24

1 STATE OF WEST VIRGINIA,  
2 COUNTY OF NICHOLAS, to wit;  
3

4 I, Elizabeth A. Hill, a Notary Public within  
5 and for the County and State aforesaid, duly  
6 commissioned and qualified, do hereby certify that the  
7 foregoing deposition of ANTHONY MAR was duly taken by  
8 me and before me at the time and place and for the  
9 purpose specified in the caption hereof, the said  
10 witness having been by me first duly sworn.

11 I do further certify that the said deposition  
12 was correctly taken by me in shorthand notes, and that  
13 the same were accurately written out in full and  
14 reduced to typewriting and that the witness did not  
15 request to read the transcript.

16 I further certify that I am neither attorney  
17 or counsel for, nor related to or employed by, any of  
18 the parties to the action in which this deposition is  
19 taken, and further that I am not a relative or employee  
20 of any attorney or counsel employed by the parties or  
21 financially interested in the action and that the  
22 attached transcript meets the requirements set forth  
23 within article twenty-seven, chapter forty-seven of the  
24 West Virginia Code.

My commission expires July 5, 2027. Given  
under my hand this 28th day of April, 2025.

Elizabeth A. Hill  
Registered Diplomate Reporter  
Certified Realtime Reporter

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